

February 6, 2012

EPA Sets CCR Public Meeting, Web Dialogue

EPA will host an online public meeting/listening session February 23 from 2:00-4:00 p.m. (EST) to provide information and collect feedback on its retrospective review of Consumer Confidence Reports (CCRs). Topics slated for discussion include “electronic delivery of the reports, resource implications for implementing report delivery certification, use of reports to meet public notification requirements, and how contaminant levels are reported in the consumer confidence reports.” The agency is expected to also provide clarification on the types of information it would like to collect from stakeholders to support CCR revisions. To participate in the meeting, register at:
<https://www3.gotomeeting.com/register/396514342>.

Following the public meeting, EPA will also coordinate a “web dialogue” to further discuss the issues related to its proposed CCR review. To engage in this dialogue, scheduled to run from February 23 to March 9, participants are required to sign up at <http://CCRRetrospectiveReview.ideascale.com>.

House, Senate Focus On Critical Infrastructure Cybersecurity

Some drinking water utilities could soon be required to meet minimum cybersecurity performance standards under a pair of bills currently under discussion in the House and Senate.

Congressional leaders in both chambers are aiming to move comprehensive cybersecurity legislation this year. This week the House Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies took a first step by approving H.R. 3674, the “Protecting and Enhancing Cybersecurity Information Sharing Effectiveness (PrECISE) Act.” Sponsored by Subcommittee Chairman Dan Lungren (R-Calif.), the bill would introduce the first federal cybersecurity standards for critical infrastructure assets whose “destruction or disruption” due to a cyber intrusion could lead to a significant loss of life, a major economic disruption or mass evacuations of a major population center. The water sector is not mentioned specifically, but some major drinking water systems would likely meet this threshold.

This Week In Congress

The Senate is scheduled to hold a final vote today on the Federal Aviation Administration conference report authorizing aviation programs through the 2015 fiscal year. Later this week, the Senate will begin floor debate on a surface transportation reauthorization bill.

In the House, votes are planned on measures to create a process through which the President may request that Congress remove discretionary spending items from appropriations bills (the so-called “line-item vetoes”) and to change how debt issued by Fannie Mae and Freddie Mac are accounted for during the federal budget process.

The bill would direct DHS to work with critical infrastructure stakeholders to identify cybersecurity risks to various critical infrastructure sectors and include these risks in annual sector risk assessments required under the National Infrastructure Protection Plan. DHS, the National Institute of Standards and Technology and the heads of sector specific agencies with critical infrastructure oversight would then examine existing cybersecurity performance standards to identify the best methods to mitigate known cyber risks to various sectors, or develop performance standards for a sector if none exist. Sector specific agencies with oversight of covered critical infrastructure (such as EPA for the water sector) would subsequently propose rulemaking to include “the most effective and cost-efficient risk-based performance standards” for cybersecurity in that sector’s regulatory regime.

Chairman Lungren noted at the H.R. 3674 markup that these provisions have generated some concerns among private critical infrastructure operators, but argued that his framework is “less intrusive” than other proposals that would give DHS broader regulatory authority. He said “the status quo of voluntary action” on cybersecurity is “no longer acceptable.” In an attempt to address some of the concerns, an amendment was added at markup to clarify that the bill does not expand any government agency’s regulatory authority over critical infrastructure sectors beyond codifying identified risk-based performance standards.

Another section of H.R. 3674 would establish a new National Information Sharing Organization (NISO) charged with providing technical assistance and collecting and sharing of cyber threat information across critical infrastructure sectors and stakeholders, the private sector and the federal government. Members of NISO’s board of directors would come from the federal government and the private sector, with eight seats reserved for representatives of specific critical infrastructure sectors. The water sector was reserved a seat on the board after AMWA met with committee staff to encourage its inclusion. Each appropriate sector coordinating council and sector specific agency would recommend board appointees for the sector they oversee, and DHS would officially approve each appointment. More information on the “PrECISE Act” is available at <http://homeland.house.gov/markup/subcommittee-markup-hr-3674>.

Meanwhile, Senate Majority Leader Harry Reid (D-Nev.) is reportedly hoping to bring a comprehensive cybersecurity bill to the Senate floor within the next few weeks, though the final details are still being worked out. While text of the Senate bill is not yet available, reports indicate that it will be similar to the House bill in calling for the development and implementation of minimum cybersecurity performance standards for computer networks that operate certain critical infrastructure assets.

Sustainability Planning Handbook Issued For Water Utilities

EPA released a comprehensive handbook to help water utilities build sustainability considerations into their planning. *Planning for Sustainability: A Handbook for Water and Wastewater Utilities* is intended to help utilities ensure that water infrastructure projects across the nation, including those funded through the State Revolving Fund programs, are sustainable and support the long-term sustainability of the communities these utilities serve.

In developing the handbook, EPA worked closely with a number of utility and state program managers around the country, including several AMWA members. The handbook describes four core elements where utilities can explicitly build sustainability considerations into their existing planning processes. Each element contains relevant examples from utilities around the country. The document can be downloaded from EPA’s website at http://water.epa.gov/infrastructure/sustain/sustainable_systems.cfm.

Signs Of Spring In Washington: Cherry Blossoms And AMWA's Water Policy Conference

This March marks the Centennial Cherry Blossom Festival in Washington, D.C. The Nation's Capital will also welcome water executives to AMWA's 2012 Water Policy Conference, March 18-21. Renowned political analyst **Charlie Cook** and Congressional environmental leader **Sen. Ben Cardin (D-Md.)** top the agenda, which includes other key members of Congress, policy makers from the White House, EPA and the Department of Homeland Security, and representatives from the U.S. Chamber of Commerce and the American Society of Civil Engineers who share common ground with water utilities on infrastructure funding issues.

The Conference is a short six weeks away and **AMWA's special room rate at the Washington Court Hotel is available only until February 27.**

Program and registration information are online at www.amwa.net/cs/2012WPC.

Studies Show Non-Linear Cr-VI Cancer Risk

The latest conclusions from 13 industry-sponsored studies examining the potential human toxicological effects of chromium VI (Cr-VI) exposure were reviewed at the Toxicology Forum's annual winter meeting in Washington, D.C, January 31-February 2. This latest update was a more definitive confirmation of previously released, preliminary findings indicating that Cr-VI, which is carcinogenic at high doses, is efficiently broken down in chromium III, a harmless (and potentially beneficial) form of chromium in the human digestive system at low doses.

The findings of these studies, sponsored by the American Chemical Council (ACC), have major potential implications for EPA's Integrated Risk Information System (IRIS) assessment of Cr-VI currently under development. The new studies' findings call into question EPA's past assumption that Cr-VI cancer risks are linear – an assumption based on high-dose studies. Using a non-linear cancer risk assumption based on low-dose exposure in its IRIS assessment would lead to less strict drinking water limits for Cr-VI than those estimated using a linear model. The appropriate level at which a drinking water limit should be set is an important issue to many utilities facing large costs to comply with potential revised standards that may not be warranted for public health protection.

Although most of the Cr-VI toxicology studies are complete, only four of the 13 separate studies have undergone peer review, with peer review slated for the remaining studies in the near future. Despite efforts to maintain transparency and openness through a peer review process, some advocacy groups continue to question the findings, largely based on ACC's sponsorship. For its part, EPA has not commented on the studies, but delays in publishing its IRIS risk assessment may indicate that the agency is taking a close look at all available new data prior to moving forward.

Obama Budget Reportedly Eyes \$100 Million Cut To EPA

The official release of President Obama's FY13 budget is still a week away, but reports from Washington claim the White House will propose funding EPA at \$8.3 billion next year – a cut of roughly \$100 million from its current level.

EPA has been widely expected to suffer a funding cut in 2013 following a White House directive issued last year that agencies prepare budget plans at least five to ten percent below the amounts received in the 2011 fiscal year. However, members of the Republican-controlled House of Representatives are likely to propose a much more severe EPA cut in their own budget, and the agency will be subject to another cut of as much as nine percent next January if automatic reductions mandated by last year's Budget Control Act kick in as scheduled.

Last week's reports on the EPA budget included no mention of funding levels for the Clean Water and Drinking Water State Revolving Funds, but because they comprise roughly one-third of annual EPA spending, they will likely be impacted by budget cuts of any amount.

Subcommittee Chairman Reiterates Opposition To Including Water Sector In DHS Chemical Program

The Chairman of the House subcommittee with oversight of the Safe Drinking Water Act last week reiterated his opposition to subjecting drinking water facilities to regulation under the DHS Chemical Facility Anti-Terrorism Standards (CFATS) at a hearing investigating the reported shortcomings of the program.

The hearing was convened in response to a leaked DHS internal memo detailing programmatic and staffing challenges within CFATS. Environment and the Economy Subcommittee Chairman John Shimkus (R-Ill.) said his colleagues in Congress "need to be reassured" that DHS will focus on correcting CFATS' existing problems rather than seeking additional regulatory authority to oversee security at drinking water systems or mandate the use of so-called "inherently safer technologies."